

## REMARKS

Applicant respectfully requests reconsideration of this application.

### Rejections Under 35 U.S.C. § 103(a)

Claims 1-5, 8, 12-16, 19, 23-27, 30, 34-38, 41 and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,629,752 of Kinjo ("Kinjo") in view of U.S. Patent No. 5,864,630 of Cosatto et al. ("Cosatto"). The Final Office Action mailed April 6, 2004 states the Examiner has not taken Official Notice of the logical AND operation, as claimed, and suggests the performance of the claimed logical AND operation is similar to "several different classifiers evaluate an object independently and are then combined in a final step," as disclosed in Cossatto. Applicant respectfully disagrees with the assertion. Applicant respectfully submits that the combination of Kinjo and Cossatto does not disclose or suggest the elements or elements similar to "performing a logical AND on said first area and said second area to determine a third area of the color graphic image," as recited in claims 1, 23, 34, and 45. Rather, Cosatto explicitly discloses that this "combination in the final step" may be accomplished using a voting procedure or weighted process. (See Cosatto column 2, lines 12-23). However, Cosatto does not disclose or suggest that the disclosed combinational step could be performed with a logical AND on said first area and said second area to determine a third area of the color graphic image, as recited in claims 1, 23, 34 and 45.

In addition, the Office Action goes on to suggest that the essence of the invention does not require a logical AND operation because there is no mention of a logical AND operation in claim 12. Applicant respectfully submits that it is improper to reject a claim based on an interpretation of the "essence" of an invention. Rather, all the limitations of

a claim must be considered when weighing the differences between the claimed invention and the prior art in determining obviousness (see MPEP §2116.01).

Furthermore, Applicant agrees with the assertion made in the Office Action that Kinjo does not disclose selecting portions of said third area with suitable hue saturation to form said at least one candidate patch, as recited in claims 1, 23, 34, and 45. However, Applicant respectfully disagrees with the assertion in the Office Action that the color analysis in Cosatto teaches the selecting portions of the third area element as claimed. More specifically, Applicant submits that the color analysis, as described in Cosatto, is not performed on a third area, which is determined by a logically ANDing a first and second area. Rather the color analysis, as disclosed in Cosatto, is only performed on one of the three channels that are used to locate objects in an image. Therefore, the combination of Kinjo and Cosatto does not disclose or suggest selecting portions of said third area with suitable hue saturation upon performing a logical AND on the first area and second area to determine the third area, as recited in claims 1, 23, 34, and 45.

Furthermore, in regards to claim 12, Applicant respectfully submits that the combination of Kinjo and Cosatto do not disclose or suggest, “a color gradient map of the color image,” “an intensity map of the color map,” or “a combined map configured to indicate true where said color gradient map is true and said map is true,” as claimed and as described in the present patent application. The sections of the prior art cited by the Examiner as teaching the claimed element simply describe the application of conventional color gradient and intensity routines to a color image. There is no indication that these routines generate the color map, intensity map, or combined map as claimed in claim 12.

Accordingly, Applicant respectfully submits that the combination of Kinjo and Cosatto do not teach or suggest each and every element of claims 1, 12, 23, 34, and 45 under 35 USC 103. Therefore, Applicant respectfully requests the rejection of the claims be withdrawn. Dependent claims 2-5, 8, 13-16, 19, 24-27, 30, 35-38, and 41 are dependent on one of the claims 1, 12, 23, 34, and 45. Therefore, Applicant requests the rejection of dependent claims 2-5, 8, 13-16, 19, 24-27, 30, 35-38, and 41 be withdrawn, at least for the reasons stated above.

Furthermore, in regards to claims 3, 5, 14, 16 25, 27, 36, and 38, Applicant concurs with the Examiner's assertion that Kinjo does not explicitly disclose that said first or said second threshold is determined by normalization. However, the Examiner takes Official Notice that determining thresholds by normalization is well know in the art. Applicant respectfully objects to such Official Notice and requests the Examiner cite references in support of this position.

Claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,629,752 of Kinjo ("Kinjo") in view of U.S. Patent No. 5,864,630 of Cosatto et al. ("Cosatto") as applied to claims 1, 8, 12, 19, 23, 30, 34 and 41 above, and further in view of U.S. Patent No. 5,781,650 of Lobo et al. ("Lobo").

As articulated above, claims 1, 12, 23, 34, and 45 are patentable over the combination of Kinjo and Cosatto. Lobo fails to cure the underlying deficiencies of the base combination, including the failure to teach or suggest the elements or elements similar to performing a logical AND on said first area and said second area, as discussed above. Hence, Applicant respectfully submits that claims 6, 7, 9-11, 17, 18, 20-22, 28,

29, 31-33, 39, 40 and 42-44 are patentable over the combination of references and respectfully requests the rejection to these claims be withdrawn.

### CONCLUSION

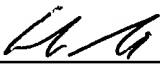
Applicant respectfully submits that the rejections have been overcome by the remarks, and that the pending claims are now in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the pending claims be allowed.

If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: June 4, 2004

  
\_\_\_\_\_  
André Gibbs  
Reg. No. 47,593

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025-1026  
(408) 720-8300